

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Case No: 22/00891/FUL
Proposal Description: The addition of a detached 4 bedroom dwelling
Address: Fairhaven, Fontley Road, Titchfield, Fareham, Hampshire
Parish, or Ward if within Winchester City: Wickham And Knowle
Applicants Name: Mr Guy Hudson
Case Officer: Nicola Clayton
Date Valid: 26 April 2022
Recommendation: Refuse
Pre Application Advice: No

Link to Planning Documents

22/00891/FUL

<https://planningapps.winchester.gov.uk/online-applications/search.do?action=simple>



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Case No: 22/00891/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Reasons for Recommendation

The development is recommended for refusal as it is considered that the proposal conflicts with the development plan.

The proposed development would represent an undesirable additional dwelling for which there is no overriding justification in an area of countryside, contrary to Policy MTRA4 of the Winchester District Local Plan Part 1 - Joint Core Strategy.

The proposal fails to reflect the rural characteristics of the area in terms of layout, density and design, contrary to policies DM15, DM16 and DM23 of the LPP2.

The proposed development is contrary to policies CP15 and CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone.

The proposal is also contrary to Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 and Policy CP16 of Local Plan Part 1 as it is considered that the proposal will have a likely significant effect on a National protected site through an increase in nitrate input which has not been addressed.

As a result, it is considered that the proposed development would result in significant harm to the Special Protection Area (SPA) and the species that it supports, therefore contravening the legal requirements of the Wildlife and Countryside Act 1981, the Habitat Regulations.

The application also fails to accord with policies CP15 and CP16 of the Local Plan Part 1 as insufficient ecological information has been submitted. Therefore, impact on the local ecology cannot be assessed.

Insufficient information has been submitted with the application to ensure a safe access and egress to the site contrary to policy DM18 of the Local Plan Part 2.

General Comments

The application is reported to Committee due to the number of support comments received contrary to the officer's recommendation.

Amendments to Plans Negotiated

None

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Site Description

The application site is located in the countryside outside of a settlement boundary. The application site is situated adjacent to the dwelling Fairhaven on Fontley Road. The site is laid to grass and is used as amenity space for Fairhaven. There is an oak tree on the western boundary of the site.

The surrounding area is rural in character and this is created by the undeveloped nature of the surroundings and size of surrounding plots.

Proposal

The addition of a detached 4 bedroom dwelling

Relevant Planning History

None

Consultations

Consultee:

Hampshire County Council - Highway Authority

Insufficient detail has been submitted at this point.

Service Lead for Engineering - Drainage

No objection subject to details of foul and surface water drainage to be provided.

Service Lead for Community and Wellbeing - Ecology

Insufficient detail has been submitted at this point.

Service Lead for Community and Wellbeing - Trees

Following further information submitted as per the tree officer's recommendation, the tree officer has been consulted and revised consultation comments shall be provided as an update.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Representations:

Wickham and Knowle Parish Council

Object: The proposals involve a site that is outside the settlement boundary in a countryside location and are therefore contrary to Winchester City Council's Local Plan Part 2 Policy MTRA4 and Policy DM21 which state that only development with an operational need for a countryside location complying with the Development Plan will be permitted.

15 supporting representations received from different addresses citing the following material planning reasons:

- *Size, design and appearance in keeping with the character of the area.*

National Planning Policy Framework 2021

- Para 7 - the proposal meets the test of sustainable development including the economic, social and environmental objectives.
- Para 47 - planning law requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.
- Para 85 – development to meet local business and community needs in rural areas outside settlement boundaries (and not well-served by public transport) is sensitive to its surroundings and does not have an unacceptable impact on local roads.
- Para 119 - planning decisions should promote the effective use of land in meeting the need for homes and other uses while safeguarding and improving the environment and ensuring safe and healthy conditions.

Winchester Local Plan Part 1 – Joint Core Strategy (LPP1).

DS1 – Development Strategy & Principles

MTRA1 – Development Strategy Market Towns and Rural Area

MTRA 4 – Development in the Countryside

CP13 – High Quality Design

CP14 – Effective Use of Land

CP15 – Green Infrastructure

CP16 – Biodiversity

Winchester District Local Plan Part 2 – Development Management and Site Allocations (LPP2)

DM1 – Location of Development

DM15 – Local Distinctiveness

DM16 – Site Design Criteria

DM17 – Site Development Principles

DM18 – Access and Parking

DM19 – Development and Pollution

DM23 – Rural Character

DM24 – Important Trees and Hedgerows

Case No: 22/00891/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Supplementary Planning Document

National Design Guide 2019

High Quality Places 2015

Air Quality SPD September 2021

Residential Parking Standards SPD December 2009

Other relevant documents

Climate Emergency Declaration

Carbon Neutrality Action Plan 2020 - 2030

Landscape Character Assessment March 2004 and emerging LCA December 2021

Biodiversity Action Plan 2021

Waste Management Guidelines and Bin Arrangements

Position Statement on Nitrate Neutral Development – February 2020

Planning Considerations

Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 47 of the National Planning Policy Framework (NPPF, 2021) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The development is not situated within a settlement boundary and is therefore considered to be within the countryside where there is a presumption against development.

The application is therefore subject to the countryside policies (MTRA4), residential development would not normally be permitted in these locations. Local Plan Part 2 (LPP2) policies require appropriate design (DM15-DM17), suitable access and parking (DM18), and the protection of rural character (DM23).

The NPPF promotes a presumption in favour of sustainable development but where an application conflicts with an up to date development plan, permission should not usually be granted (NPPF paragraph 12). The Council is currently able to demonstrate a 5-year supply of housing land (including a 5% 'buffer') so paragraph 11(d) of the NPPF does not apply.

The proposal is for residential and associated development outside of the defined settlement boundary. The site is therefore subject to the provisions of policy MTRA4 and housing would not normally be permitted.

Policy MTRA4 sets out several circumstances where development may be permitted in the countryside, but none of these apply in this case as the proposal is for redevelopment of the existing farm building and involves market housing rather than commercial/community

Case No: 22/00891/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

uses. Policy CP4 may provide for affordable housing to be permitted exceptionally on sites outside current policy, to meet specific local needs, but this proposal is not for a rural housing 'exception' scheme.

Accordingly, Local Plan policies would not normally allow for residential development in this location. Similarly, national planning policies (NPPF) generally seek to resist isolated housing development in the countryside unless it meets one of 5 defined circumstances. These circumstances do not apply in this case, again because the proposal is for redevelopment of the site for market housing and is not for an essential rural worker (WDLPP2 DM11) with any other needs or exceptions cited, or for reuse of the existing building for employment or community use.

Paragraph 2 of the National Planning Policy Framework states that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.

The NPPF requires that decisions should apply a presumption in favour of sustainable development. In this case Winchester City Council has an up to date Development Plan and there are relevant policies which are not met as listed above.

In this instance, the application is contrary to a number of policies in the development plan and the principle of development is not acceptable under policy MTRA4. Material planning considerations do not indicate that an alternative approach should be taken.

Assessment under 2017 EIA Regulations.

The development does not fall under Schedule I or Schedule II of the 2017 Environmental Impact Assessment Regulations, therefore an Environmental Impact Assessment is not required.

Impact on character and appearance of area

The general character of the area is for large dwellings in generous plots with a loose grain. This supports the rural character of the area and plays an important role in upholding its undeveloped character. On the contrary, the proposed layout and density of the proposal would be more indicative of development within the settlement boundary rather than a rural development by reason of the resulting plot size which is at odds with the prevailing character.

This would result in an out of character plot size being introduced. From the street scene, this would evidently contradict the open nature of the area and undermine its rural character, resulting in visual intrusion.

In addition, the proposal seeks to introduce a dwelling with multiple design forms including a variety of roof scapes and protruding features such as gables and balconies.

The design of the dwelling does not respond to the rural context of the area and results in
Case No: 22/00891/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

a property of significant depth due to the constraints imposed by the size of the site. Such a design and relationship with the plot is not considered to be acceptable for this countryside area. This results in a development which fails to respect its surroundings.

It is therefore considered that the proposal would be contrary to policies DM15 and DM16 in that the proposal would fail to respond positively to the character of the area by way of its density, layout and design and introduces visual intrusion to the rural character of this area, contrary to policy DM23.

Development affecting the South Downs National Park

The application site is located approximately 6.4km from the South Downs National Park

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) updated 2021. The Circular and NPPF confirm that National Parks have the highest status of protection, and the NPPF states at paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in national parks and that the conservation and enhancement of wildlife and cultural heritage are also important considerations and should be given great weight in National Parks.

Due to the distance and intervening features an adverse impact on the National Park and its statutory purposes is not found.

In conclusion therefore the development will not affect any land within the National Park and is in accordance with Section 11a of the National Parks and Access to the Countryside Act 1949.

Historic Environment

There is no impact as the works would not affect a statutory listed building or structure including its setting and there is no harm to a conservation area, Archaeology or Non-designated Heritage Assets including their setting.

Neighbouring amenity

The proposed development will be visible from the neighbouring property to the south of the application site. Due to the distances involved it is not considered that the proposal would result in overbearing or loss of light. The property to the south has an extensive garden with primary amenity areas adjacent to the boundary. It is noted that there is an existing line of trees that would provide some screening.

Should the application have been considered acceptable, a condition would have been considered necessary to prevent any overlooking from the first floor bedroom windows on the side elevation of the property.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Sustainable Transport

The site benefits from an existing access onto Fontley Road. It has not been demonstrated that this access contains sufficient visibility splays (including an assessment on whether this would result in the harmful removal of hedgerow) to allow access to and from the site in a safe and effective manner.

As a result, it has not been demonstrated that the surrounding highway network can operate in a safe manner alongside the proposed development and the application is contrary to policy DM18 of the LPP2.

Ecology and Biodiversity

Directly adjacent to the south western boundary is an area of improved grassland priority habitat. The site is located within 45m of a pond and 135m of the River Meon Site of Importance for Nature Conservation (SINC). The potential impact of this proposal on these priority habitats and any associated protected species has not been assessed. This information is required prior to determination.

The majority of the site is comprised of amenity grassland which is maintained at a short sward height and has limited potential for protected species such as reptiles. The boundary hedgerow will be retained in the proposal. This is important for maintaining biodiversity and connectivity through the site.

It appears that vegetation removal will be required, particularly to create the new access into the proposed site. The potential impact of this habitat removal on protected species has not been assessed by the applicant. This information is required prior to determination. It should also be noted that there are records of hedgehog in this location.

The application fails to accord with policies CP15 and CP16 of the Local Plan Part 1 as insufficient ecological information has been submitted. Therefore, impact on surrounding ecology and biodiversity cannot be assessed.

This site is within 5.6 km of the Solent coastline. Tens of thousands of birds come to the Solent coast for the winter and there are three Special Protection Areas (Chichester & Langstone Harbours; Portsmouth Harbour; and Solent & Southampton Water) to safeguard them. The protection afforded by the SPA designations has particular consequences. Under the Habitats Regulations, any plan or project can only lawfully go ahead if it can be shown that the development, either on its own or in combination with other plans or projects, will have no adverse effect on the integrity of the SPAs.

New housing around the Solent will lead to more people visiting the coast for leisure with the potential to cause more disturbance to the birds. Research shows that additional disturbance will affect the birds' survival unless mitigation measures are put in place. Bird Aware Solent provides a means to deal with the potential impacts along the coastline resulting from housing developments. The initiative is run by the Solent Recreation Mitigation Partnership, which is made up of 19 organisations (local authorities and conservation bodies) including Winchester City Council, and is funded by financial

Case No: 22/00891/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

contributions from new dwellings and other forms of residential developments within 5.6km of the SPAs. The measures implemented by the Partnership provide a means for developers to mitigate the effects of their schemes so that obligations under the Habitat Regulations can be met and planning permission granted.

The planned mitigation measures are set out in the Interim Solent Recreation Mitigation Strategy. The main one is a team of rangers to help coastal visitors and communities understand the importance of the different bird species and the impact of disturbance. Additional work is taking place to encourage responsible dog walking and visits to less sensitive parts of the coast. This work is particularly important as research shows that around 40% of bird disturbance occurs as a result of interactions with dogs. In addition the Bird Aware Solent team have secured Local Growth Deal funding which has been spent on creating or enhancing alternative local green spaces for some people who would have otherwise visited the coast. The effectiveness of the Strategy's measures are also being monitored. The Interim Strategy is due to be replaced by a Definitive Strategy later this year.

The Council's Supplementary Planning Document relating to the SDMP states that Developments of one or more dwellings within a 5.6km radius of the SPA will be required to provide financial contributions of £864 per 4 bedroom dwelling towards the SDMP in order to prevent additional disturbance to the SPA/ Ramsar site.

In this instance the application is not accompanied with the requisite contribution to mitigate the harm caused to biodiversity in the affected area as set out above, failing to comply with policies CP15 and CP16 of LPP1.

The proposal is for development within, bordering or in close proximity to a National Protected Site and is for overnight accommodation affecting Nitrates.

The proposed development is within Winchester District where foul water is distributed into the National designated areas (Solent SPAs/Ramsar sites) via water treatment plants. In accordance with advice from Natural England and as detailed in Policy CP16 of the Winchester City Council Local Plan Part 1 Joint Core Strategy, a net increase in housing development within Winchester District is likely to result in impacts to the integrity of those sites through a consequent increase in Nitrates. A nitrate calculation has not been conducted in relation to this and therefore it is not possible to assess the proposed developments potential of achieving nitrate neutrality and in the absence of such a nitrate calculation it is not possible to ensure that in the case of additional nitrates being created that appropriate mitigation is secured; because of this, it is considered that the proposal will have likely significant effect on a National protected site though an increase in nitrate input.

The proposal is therefore contrary to Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 and Policy CP16 of Local Plan Part 1 as it is considered that the proposal will have a likely significant effect on a National protected site though an increase in nitrate input which has not been addressed.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Sustainability

Developments should achieve the lowest level of carbon emissions and water consumption which is practical and viable. Policy CP11 expects new residential developments to achieve Level 5 for the Energy aspect of the Code for Sustainable Homes and Level 4 for the water aspect. No information has been submitted as part of this application to ensure this is complied with. This would have been conditioned had the application been successful.

Sustainable Drainage

The site is within flood zone 1 and therefore at low risk of flooding. A lack of information has been submitted and therefore a condition requiring details of foul and surface water drainage would be required should the application have been considered acceptable.

Other Topics

Trees

There is a large oak tree on the site. Insufficient detail was originally submitted as part of this application to assess any potential impact on this tree and further information was subsequently submitted. The revised information is currently being assessed by the Council's tree specialists and their comments and recommendations will be confirmed as part of an update to Members.

Equality

Due regard should be given to the Equality Act 2010: Public Sector Equality Duty. Public bodies need to consciously think about the three aims of the Equality Duty as part of the process of decision-making. The weight given to the Equality Duty, compared to the other factors, will depend on how much that function affects discrimination, equality of opportunity and good relations and the extent of any disadvantage that needs to be addressed. The Local Planning Authority has given due regard to this duty and the considerations do not outweigh any matters in the exercise of our duty.

Planning Balance and Conclusion

The proposal fails to accord with policy MTRA4 of the Local Plan Part 1 in that it would result in an additional dwelling within the countryside with no justification.

The proposal fails to reflect the rural characteristics of the area in terms of layout, density and design, contrary to policies DM15, DM16 and DM23 of the LPP2.

The proposed development is contrary to Policy CP15 and CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone and does not provide mitigation in response to the nitrates issue.

Case No: 22/00891/FUL

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE

Insufficient information has been submitted with the application to ensure a safe access and egress to the site contrary to policy DM18 of the Local Plan Part 2.

The application fails to accord with policies CP15 and CP16 of the Local Plan Part 1 as insufficient ecological information has been submitted. Therefore, impact on the local ecology cannot be assessed.

The application is therefore contrary to a number of policies of the Development Plan and material planning considerations do not indicate that an alternative approach should be taken.

Recommendation

Refuse for the following reasons:

- 1.** The proposed development would represent an undesirable additional dwelling for which there is no overriding justification in an area of countryside, contrary to Policy MTRA4 of the Winchester District Local Plan Part 1 - Joint Core Strategy.
- 2.** The proposed development would fail to respond positively to the character of the area by reason of its density, layout and design and would result in visual intrusion to the rural character of the area, contrary to policies DM15, DM16 and DM23 of the Local Plan Part 2.
- 3.** The proposed development is contrary to Policy CP15 and CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone.

The proposal is also contrary to Regulations 63 and 64 of The Conservation of Habitats and Species Regulations 2017 and Policy CP16 of Local Plan Part 1 as it is considered that the proposal will have a likely significant effect on a National protected site though an increase in nitrate input which has not been addressed.

As a result, it is considered that the proposed development would result in significant harm to the Special Protection Area (SPA) and the species that it supports, therefore contravening the legal requirements of the Wildlife and Countryside Act 1981, the Habitat Regulations.

- 4.** The application fails to accord with policies CP15 and CP16 of the Local Plan Part 1 as insufficient ecological information has been submitted. Therefore, the impact on surrounding ecology and biodiversity cannot be assessed.
- 5.** It has not been demonstrated that access to and from the site can take place in a safe and effective manner, contrary to policy DM18 of the Local Plan Part 2.